

EXHIBIT 1



Boston University School of Medicine
Slone Epidemiology Unit



August 23, 2000

Redacted

Dear

As you are aware, you recently concluded a medical leave and were expected to return to work on August 8, 2000. You have neither returned to work nor responded to my telephone message of August 10, 2000, or my letter of August 14, 2000. As you have not appeared for work or contacted us, I can only conclude that you have chosen to voluntarily terminate your employment with Boston University. Accordingly, I will be processing the paperwork today to terminate you from the system.

We hope that you are feeling better and wish you all the best in the future.

Sincerely,

A handwritten signature in cursive script that reads "Linda".

Linda H. McNeil
Administrator

Cc: Allen A. Mitchell, M.D.
Dawn Jacobs
George T. Snowdon

BU 0536



Boston University School of Medicine
Slone Epidemiology Unit



August 14, 2000

Redacted

Dear

As you know, your recent medical leave under the Family and Medical Leave Act began on May 16, 2000, and ended on August 8, 2000, as detailed in the letter of July 7, 2000, from George T. Snowdon. We have not heard from you concerning your intentions to either return to work or to extend your medical leave. We, therefore, will have to fill your position and will be happy to accept your application for appropriate positions that may become available in the future.

We will be receptive to your request to extend your medical leave. Please put your request in writing and send it to my attention.

We all hope that you are feeling better.

Sincerely,

Linda H. McNeil
Administrator

Cc: Allen A. Mitchell, M.D.
Dawn Jacobs
George T. Snowdon✓

BU 0537

SLONE EPIDEMIOLOGY UNIT

Interoffice Memo

TO: George Snowden
Michelle Hamm

FROM: Maureen Corbett

DATE: July 18, 2000

RE: Redacted

Attached you will find _____'s turnaround. She has been on a medical leave since May 17, 2000. We just received the completed request last week so her turnaround was never sent over for processing. She has been approved for her leave until 8/7/00 although she should not get paid after 7/25/00.

Please let me know if you need any further information.

Thank you.

Maureen

WORD:MMOTEMP

BU 0538

BOSTON UNIVERSITY MEDICAL CAMPUS

Leave of Absence – Available Paid Time (Staff)

00 JUL 14 AM 10:42

To: Redacted
(Employee)

RECEIVED
BOSTON UNIVERSITY MEDICAL CAMPUS

From: LINDA McNEIL
(Mail Code Coordinator)

Date: 7/12/00

This will confirm the available paid time which will be applied to your:

☒ Leave of Absence which has been approved from 5/17/00 to 8/7/00

☐ Intermittent Leave or Reduced Time Schedule which has been approved on the following basis:

As of 7/25/00 our records show the following available paid time:

		will be applied to leave	will not be applied to leave
Sick Time	<u>31.51 hrs.</u>	<u>31.51 hrs.</u>	_____
Vacation Time	<u>375.14 hrs.</u>	<u>376.49 hrs.</u>	_____
Compensatory time	_____	_____	_____
Personal Days	_____	_____	_____

Period of paid leave: 5/17/00 to 7/25/00

Period of unpaid leave: 7/26/00 to 8/7/00

Please refer to the reverse side of the Staff Request / Notification for Leave form for further information, or contact the Manager of Benefits at 617-638-4610.

Please call me at 734-6006 if you have any questions regarding this information.

BU 0539

copy: Manager of Benefits, Office of Personnel, 560 Harrison Aven. 1 floor

Rev 2/00



Boston University Medical Campus

Office of Personnel

715 Albany Street, 560-4
Boston, Massachusetts 02118

George T. Snowden
Director of Personnel

(Mailing Address)

560 Harrison Avenue, 4th Floor
Boston, Massachusetts 02118

(Location)

Tel: (617) 638-4610

Fax: (617) 638-8820

July 7, 2000

Redacted

RE: Family and Medical Leave

Dear

This confirms that you have requested a Family and Medical Leave under Boston University's Family and Medical Leave Policy (the "Policy") and the Family and Medical Leave Act of 1993 (the "FMLA"). This letter is intended to give you basic information about some of your rights and obligations under the Policy and the FMLA.

Designation of Leave and Effect on Leave Entitlement

Subject to any verification that may be required under this Policy, your leave is designated as a leave covered by both the Policy and the FMLA. Under the FMLA you are entitled to up to 12 weeks of qualifying Family and Medical Leave in a 12 month period.

Pay Status During Leave

You may qualify to receive pay while on leave under the University's Sick Leave or Short-term Disability policies. If so, you should follow the procedures under these policies to request paid leave. Once your sick leave is exhausted, any accrued but unused vacation and available compensatory time must be used to the extent available for the remainder of your leave.

Health and Dental Plan Coverage

During the leave you will have the opportunity to continue your health and dental plan coverage by paying the same share for such coverage as is charged to active employees. During any paid portion of your leave, the employee share will be deducted from your pay in the same manner as it is for active employees.

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Family and Medical Leave Request

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July 7, 2000

During any unpaid portion of your leave, the Benefits Office will contact you directly to make arrangements for you to make your regular payments to the health and dental plans. If you do not pay the required employee share within 30 days of the date that payment is due, your health and dental plan coverage will cease.

Providing Information While on Leave

During the leave, you may be contacted periodically about your status and/or about your intent to return to work. You will be expected to be fully responsive to such requests. You may also be required to provide medical information under certain circumstances when requested.

Conditions of Return from Leave

If you return from your Family and Medical Leave in twelve weeks or less, you will be entitled to return to the same or similar position without loss of employment benefits for which you are eligible on the date the leave commenced. If you advise the University that you do not intend to return to work (or if you fail to return to work by the expected return date), you will be considered to have resigned voluntarily from the University.

If you are granted a leave beyond the twelve week period, you shall receive every reasonable consideration by the University to return to your original position or to a position of like responsibility and pay; however, the University cannot guarantee your position at Boston University.

Please be advised that the term of your employment at Boston University and your employment rights are not extended or augmented as a result of an approved leave of absence.

Other Terms

Other terms that apply to your leave are marked below:

- ☒ You have given notice of a need for a Personal Leave. The leave is scheduled to begin (or already began) on May 16, 2000. You are currently expected to return to work on your regular schedule on August 8, 2000. Please let me know as soon as possible if circumstances change that could affect the timing of the beginning or end of the leave.
- ☒ You have requested a Personal Medical Leave. Entitlement to the leave is subject to medical verification. Please have your health care provider complete the attached Certification of Physician or Practitioner and ensure that it is returned to me within 15

BU 0541

- Family and Medical Leave Request

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July 7, 2000

days. Failing to have the form completed and returned in a timely manner could result in the delay or denial of the leave.

If your provider of health care services is not a licensed physician, you may need to have the Certification completed by someone else. Please let me know if you have any questions about whether your provider of health care services may complete the form. In any event, you may be required to obtain a second opinion from a physician designated by the University. In some cases, a third opinion may be required. You may also be required to provide medical verification during the course of the leave.

Provided that there is timely medical verification for the leave, the leave is scheduled to begin (or already began) on May 16, 2000. You are currently expected to return to work on your regular schedule on August 8, 2000. Please let me know as soon as possible if circumstances change that could affect the timing of the beginning or end of the leave.

— Due to the anticipated length of your Personal Medical Leave, before you return to work you will be required to provide me with a certification from your health care provider that you are able to return to work.

— You are required to deliver to me medical verification to support the leave every 30 days. Please ensure that the health care provider updates his or her medical assessment and completes new certifications so that I receive them every 30 days during your leave.

— Provided that you receive proper medical verification (subject to the second and third opinion process set forth above) that an intermittent or reduced leave schedule is medically necessary, you will be placed on such a leave. The schedule for your leave is as follows:

— You and the University have agreed to an intermittent or reduced leave schedule. The schedule for your leave is as follows:

— Other terms:

BU 0542

- Family and Medical Leave Request

Page 4

July 7, 2000

If you should have any questions regarding Boston University's Family and Medical Leave Policy, please feel free to contact me directly at 638-4610.

Sincerely,

A handwritten signature in dark ink, appearing to read "George T. Snowdon". The signature is fluid and cursive, with the first name "George" being more prominent.

George T. Snowdon
Director of Personnel

PDT/

Attachment

Copy: Maureen Corbett, Mail Code Coordinator, with attached Paid Time form

BU 0543

Instructions: Please complete all applicable sections, sign and date this form.

Section One: Your Information

Redacted
Slone Epidemiology Unit
 Unit/Dept: Slone

Nurse Interviewer

Title 617-734-6006 Redacted
 Phone: Office _____

Section Two: Type of Family and Medical Leave

Please indicate below which type of leave you are requesting:

<u>Reason for Request</u>	<u>Purpose</u>	<u>Documents Needed</u>	<u>Complete Sections</u>
<input checked="" type="checkbox"/> Medical Leave	<input type="checkbox"/> Birth of Child or Maternity Leave	None	Four or Five, and Seven
	<input checked="" type="checkbox"/> My Serious Health Condition	Medical Certification Form	Four or Five, Six and Seven
<input type="checkbox"/> Personal Leave	<input type="checkbox"/> Care for Family Member with Serious Health Condition	Medical Certification Form and Certification of Need for Employee's Presence	Four or Five, Six and Seven
	<input type="checkbox"/> Adoption, Foster Care, Placement of a Child or Care of Newborn Child Born to Spouse	None *Verification of placement of child	Four or Five, and Seven

Section Three: ☐ Other Personal Leave

Written request from employee

Four and Seven

Section Four: Period of Your Leave (Other than Intermittent or Reduced Time Leave)
 I expect to be away from work for the following dates/work days:

FROM: 5/17/00 TO: unknown Total Work Days Away: _____

Section Five: Flexibility on Scheduling of Your Leave Time (Intermittent or Reduced Time Leave)
 I am requesting the following intermittent or reduced time schedule for the duration of my leave:

Please refer to reverse of form for explanation.

Section Six: Documents Required for Approval of Your Request

The documents indicated in Section Two:

☒ are included or ☐ will be sent within 15 days of the date of this request.

Section Seven: Signatures/Approvals

I have read and understand the information on the reverse side of this form.

Redacted
 Signature/Date

[Signature]
 Supervisor's Signature/Date

Other Departmental Signatures

617-734-6006
 Supervisor's Phone Number

PLEASE READ IMPORTANT INFORMATION ON REVERSE SIDE

9/94

Note: Once your leave request has been reviewed and approved, you will receive written confirmation from the Office of Personnel.

BOSTON UNIVERSITY
Office of Personnel
80 East Concord Street, T2W
Boston, MA 02118

Certification of Physician
or Practitioner
(Family and Medical Leave Act of 1993)

1. Employee's Name

Redacted

2. Patient's Name (if other than employee)

3. Diagnosis

Redacted

4. Date condition commenced

5. Probable duration of condition

Indefinite

5/17/00 DATE OF LEAVE

6. Regimen of treatment to be prescribed (Indicate number of visits, general nature and duration of treatment, including referral to other provider of health services. Include schedule of visits or treatment if it is medically necessary for the employee to be off work on an intermittent basis or to work less than the employee's normal schedule of hours per day or days per week).

a. By Physician or Practitioner

1) Regular visits to Pain unit at Spaulding Rehab
2) monthly or biweekly visits to me

b. By another provider of health services if referred by Physician or Practitioner

SMH

If this certification relates to care for the employee's seriously-ill family member, skip items 7, 8 and 9 and proceed to items 13 thru 20 on reverse side. Otherwise, continue below.

Check Yes or No in the boxes below, as appropriate

7. Is inpatient hospitalization of the employee required?
____ Yes ____ No

8. Is employee able to perform work of any kind?
(If "No", skip item 9) ____ Yes ____ No

9. Is employee able to perform the functions of employee's position? (Answer after reviewing statement from employer of essential functions of employee's position, or, if none provided, after discussing with employee) ____ Yes ____ No

10. Signature of Physician
or Practitioner

[Signature]

11. Date

6/26/00

12. Type of Practice (Field of
Specialization, if any)

FM

BU 0545

MEDICAL CENTER
A member of CAREGROUP

Arnold Pain Management Center

330 Brookline Avenue
Boston, Massachusetts 02115 USA617 667-3334
Fax 617 667-8065

May 16, 2000

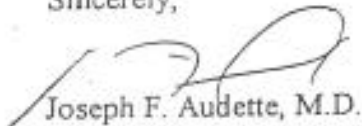
To Whom It May Concern:

Re: Redacted

Please be informed that [redacted] has been under our care for her chronic pain condition. It is our opinion that her condition has been worsening and increasingly interfering with her ability to function. As a result, we recommend that at this time she be given medical leave from her work so that she can obtain more intensive treatment.

Thank you for your cooperation in this matter.

Sincerely,


Joseph F. Audette, M.D.

BU 0546



OVERBASE SALARY: SHADED LINES ARE FOR BENEFIT BASED PAYMENTS ONLY.

FUND	UNIT	DEPARTMENT	OBJECT	SOURCE	AMOUNT PER PAY PERIOD	START DATE	STOP DATE PLUS ONE
0	0		0	T			
0	0		0	T			
0	0		0	T			
0	0		0	T			
DED S	0	0	0	T			
EFT ED	0	0	0	T			
Y	0	0	0	T			

BU 0548

DEPARTMENT SIGNATURE _____
DATE 8/4/00

PERSONNEL SIGNATURE [Signature] 8/4/00

UNIT SIGNATURE _____
DATE _____

BUDGET/OTHER SIGNATURE _____
DATE _____

PROVOST/VICE PRESIDENT SIGNATURE _____
DATE _____

GRANT & CONTRACT ACCOUNTING SIGNATURE [Signature] 8/4/00

UNIT SIGNATURE	UNIT SIGNATURE	PROVOST/VICE PRESIDENT SIGNATURE
<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>
DATE	DATE	DATE
7/18/00	7/18/00	7/18/00
BUDGET/OTHER SIGNATURE	BUDGET/OTHER SIGNATURE	GRANT & CONTRACT ACCOUNTING SIGNATURE
<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>
DATE	DATE	DATE
7/18/00	7/18/00	7/18/00

EXHIBIT 2

Boston University

Office of the General Counsel
125 Bay State Road
Boston, Massachusetts 02215
Tel: 617-353-2326
Fax: 617-353-5529



Todd L. C. Klipp
Vice President and
General Counsel

Michael B. Rosen
Lawrence S. Elswit
Stephen A. Williams
Dennis C. Hart
Erika Geetter
Willis G. Wang
Diane Levine Gardener
Crystal D. Talley

By Telefax and U.S. Mail

May 25, 2005

Harry C. Beach, Esq.
Law Offices of Harry C. Beach
30 Walpole Street
Norwood, Massachusetts 02062

RE: Mellen v. Trustees of Boston University, et al.,
Civil Action No. 04-10644-MEL (D. Mass.)

Dear Mr. Beach:

I write in response to your letter of May 19, 2005.

After conducting a reasonable investigation, the University is not aware of any other employee on the Medical Campus who failed to return from FMLA leave under circumstances similar to Ms. Mellen's, that is, without notifying anyone at BU that they did not plan to return or asking for additional time. Documents concerning employees who were not similarly situated to Ms. Mellen are not relevant, and the University stands on its objections. I believe you are mistaken as to Ms. Knecht's testimony. My notes indicate that she testified that she did not believe the "3-day grace period" was relevant to FMLA leave, and that she was not aware of any situation in which an employee did not notify the University that they did not intend to return from leave or needed additional time. We can, of course, resolve any issue regarding her testimony once we receive the transcript.

As I'm sure you appreciate, an employee's personnel file – and particularly the circumstances of medical leave – are highly personal. You have not articulated any reason that the personnel file of Ms. Dennis, who appears to have nothing whatsoever to do with Ms. Mellen's situation, is relevant to this case. Under those circumstances, the University is not obliged to produce her personnel file. *See, e.g., Whittingham v. Amherst College*, 164 F.R.D. 124, 127 (D. Mass. 1995).

If you have any questions please do not hesitate to call.

Best regards,

A handwritten signature in dark ink, appearing to read "Crystal D. Talley".

Crystal D. Talley

COPY